IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

CRP.No. 533 of 2007(C)

AGAINST THE ORDER DATED 09/02/2007 IN EP 507/2006 IN RCP.236/2002 of THE RENT CONTROLLER (PRL.M.C.),KANNUR

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REVN. PETITIONERS: PETITIONERS/PETITIONERS
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1. MADHAVI, D/O.CHIRUTHA.

2. LAKSHMI, W/O.KASTHURI PAIDAL

3. SANTHA, D/O.LAKSHMI

4. VASANTHA, D/O.LAKSHMI

*** 5. JAYACHANDRAN, D/O.LAKSHMI.**

6. VANAJA, D/O.LAKSHMI.

7. SHAILAJA, D/O.LAKSHMI

8. RAMESHAN, S/O.LAKSHMI

9. NARAYANI, D/O.CHEERU.

10. MYTHILI, D/O.CHEERU.

11. MEENAKSHI, D/O.CHEERU

12. RAVEENDRAN, S/O.CHEERU.

13. SEEMANTHINI, D/O.CHEERU,
(ALL ARE RESIDING AT CHIRAKKAL AMSOM, PUZHATHI DESOM, KANNUR).

*** THE NAME OF 5TH REVISION PETITIONER IS CORRECTED AS JAYACHANDRAN S/O LAKSHMI, INSTEAD OF D/O LAKSHMI AS PER ORDER DTD. 9.7.07 IN IA 1605/07.**

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS: RESPONDENTS/RESPONDENTS
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1. SUKUMARI O.T., W/O.SUKUMARAN, OTHAYOTH THENANGALATH, HOUSE NO.XIII-70, CHIRAKKAL AMSOM, PUZHATHI DESOM, KANNUR.

2. SUMA, D/O.SUKUMARI, OTHAYOTH THENANGALATH, HOUSE NO.XIII-70, CHIRAKKAL AMSOM, PUZHATHI DESOM, KANNUR.

3. SULEKHA, D/O.SUKUMARI, OTHAYOTH THENANGALATH, HOUSE NO.XIII-70, CHIRAKKAL AMSOM, PUZHATHI DESOM, KANNUR.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 1374 OF 2007
IN
C.R.P. NO.533 OF 2007

DISMISSED

30/7/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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C.R.P. NO. 533 OF 2007

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Dated this the 30th day of July, 2007.

O R D E R

R1 served. No representation. R2 to R3 returned unclaimed. Held sufficient service. Set exparte.

2. The short point that arises for determination in this C.R.P. is whether the Court below was right in referring the matter under Section 125(3) of the Land Reforms Act for a finding whether the respondents are entitled to get the benefit of kudikidappu with respect to the petition schedule building as claimed. I feel the Court below has not approached the matter in the right legal perspective and therefore it requires interference.

3. A rent control petition was filed under Section 11 (2)(b) and 11(3) of Act 2, of 1965. Respondents did not bother to contest the case though they filed a counter statement claiming right of kudikidappu etc. The Rent Control Court ordered eviction u/s 11(2)(b) and 11(3) of Act 2 of 1965 and it is the said order that is executed under Section 14 of the Act by the Munsiff.

4. I am at a loss to understand how the Munsiff could entertain the plea of kudikidappu raised by the respondents at that stage. It is beyond the scope of the execution Court. If there was a contention for the respondents that they were kudikidappukars of the property they had the opportunity to contest the same under Section 11(1) of Act 2 of 1965 at that point of time. So I feel the Court below has not applied its mind properly at the stage of referring the matter under Section 125(3) of the Kerala Land Reforms Act. Since the respondents have not appeared before me and as the matter is concerning about the eviction it is only desirable that the matter be reheard and disposed of by the Court below in accordance with law. Therefore, the order under challenge is set aside and if the Court has already referred it to the Land Tribunal, direct the Land Tribunal not to proceed with the matter further and thereafter decide this question afresh understanding the scope of the execution and then dispose of

the matter in accordance with law. Before hearing, the Court below shall also intimate the respondents so that they can also be heard about the same.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-